

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 10/617,340 Confirmation No.: 2750
Applicant(s) Kirk D. Swenson
Filed: July 9, 2003
Group Art Unit: 3763
Examiner: Aamer S. Ahmed
Docket: P-5344P1
Customer No.: 26253

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO ELECTION REQUIREMENT

Sir:

This document is being filed in response to the Office Action mailed September 9, 2006 in connection with the above-referenced application.

The Examiner asserts that the application contains claims directed to the following patentably distinct species:

Species A, drawn to Figures 1-9,
Species B, drawn to Figures 10&11,
Species C, drawn to Figures 12-20,
Species D, drawn to Figure 21,
Species E, drawn to Figure 26A,
Species F, drawn to Figure 26B,
Species G, drawn to Figure 26C, and
Species H, drawn to Figures 27-31.

The Examiner has stated:

“The species are independent or distinct because they comprise different elements.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.”

Applicants respectfully submit that alleged Species D is drawn to Figures 21 to 25 as Figures 22 to 25 show various views of the same embodiment of the invention as shown in Figure 21.

Provisional Election and Traversal

The Examiner has requested an election to species of the subject matter specified in the eight groups above.

Applicants respectfully traverse the election requirement with respect to Groups A through H.

Applicants contend claims 1, 23, and 27 are generic to all alleged species and that searching all embodiments would not induce an undue burden on the examiner for examination.

In view of the foregoing, Applicants respectfully request that the Examiner withdraw the election requirement and **examine all claims 1-33**. Applicants also reserve the right to further define the invention with respect to the claims of non-elected claims, or file divisional applications directed to the non-elected claims and/or species.

Election

Should the Examiner maintain the grounds for election, or propose an alternative ground, the Applicants elect claims 1, 2, 4-7, 9-13, 17-21, 23, 24, and 26-30, as embodied in Species D drawn to Figures 21-25, with traverse, reserving the right to amend and resubmit the claims readable on all other non-elected species for rejoinder under MPEP 821.04 should a generic claim become allowable. Applicants also reserve the right to further define the invention, or file divisional applications directed to the non-elected groups and/or species.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 02-1666.

If the Examiner has any questions or comments relating to the present application, he or she is respectfully invited to contact Applicants' agent at the telephone number set forth below.

Respectfully submitted,

/Mark Lindsey/

Mark Lindsey
Registration No. 52,515
Agent for Applicant(s)
201 847 6262

Dated: October 6, 2006
Becton, Dickinson and Company
1 Becton Drive, MC110
Franklin Lakes, New Jersey 07417-1880

Doc# 114904v1